

Appendix B

Investigation of Allegations Made by Kathleen E. Willey

The scope of the Special Division's Order granting the Independent Counsel jurisdiction also extended to whether President Clinton gave false testimony about Kathleen E. Willey during his deposition in *Jones v. Clinton*.¹ Willey, a White House volunteer, met with President Clinton in November 1993 to ask for paid employment in the administration. She alleged that during their meeting he fondled her.² Because the alleged incident arose in an employment

¹ The Order provided:

The Independent Counsel shall have jurisdiction and authority to investigate to the maximum extent authorized by the Independent Counsel Reauthorization Act of 1994 whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law other than a Class B or C misdemeanor or infraction in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case *Jones v. Clinton*.

In re: Madison Guaranty Sav. & Loan Ass'n, Div. No. 94-1 (D.C. Cir. [Spec. Div.] Jan. 16, 1998) (regarding Monica Lewinsky and others) (emphasis added).

² This Office subsequently learned that the Willey allegations presented potential issues of witness intimidation and obstruction of justice. Lewinsky 8/6/98 GJ at 70-77. Lewinsky said that on July 4, 1997, when she told President Clinton a reporter was working on a story about Willey's allegations, President Clinton told her Willey had called Nancy Herreich the week before to warn her about the story. Lewinsky 8/6/98 GJ at 72-73; Lewinsky 8/11/98 Int. at 5. On July 14, 1997, President Clinton called Lewinsky back to the White House and asked her whether Linda Tripp was the source of her knowledge about Willey, which Lewinsky confirmed. Lewinsky 8/6/98 GJ at 75-76. President Clinton told Lewinsky that Willey had called again, saying the reporter, Michael Isikoff, had somehow learned about Willey's first call, causing President Clinton to wonder whether Lewinsky had mentioned Willey's call to Tripp, which Lewinsky acknowledged. *Id.* at 76-77.

Lewinsky testified, "[H]e was concerned about Linda, and I reassured him. He asked me if I trusted her, and I said yes." *Id.* at 77. Lewinsky said President Clinton then asked her to try to persuade Tripp to call Deputy White House Counsel Bruce Lindsey. "[President Clinton] asked me if I would just try to see if [Linda] would call [Bruce Lindsey], and so I said I would try." *Id.* at 77-79. President Clinton left to participate in a 51-minute conference call with his private attorney in the *Jones v. Clinton* case, Robert Bennett, and Charles Ruff, then the White House Counsel, followed by a six minute phone conversation with Lindsey. Presidential Call Log of July 14, 1997 (Doc. No. 968-DC-00003550). Tripp called Lindsey, who told Tripp to contact Bennett, which Tripp did not do. Lindsey 3/12/98 GJ at 13-15; Tripp 7/16/98 GJ at 56-62, 75-80; Lewinsky 7/29/98 Int. at 11.

In a subsequent television interview, Willey was asked if she had been pressured to retract her claim by Nathan Landow, but Willey refused to answer. See *60 Minutes: Transcript of Interview with Kathleen Willey* at 8-9 (CBS television broadcast, Mar. 15, 1998). However, Willey did explain that she felt "pressured" by Robert Bennett. *Id.* at 9-10; see also Carl M. Cannon, *Willey Says Clinton Lied In Affidavit*, Balt. Sun, Mar. 16, 1998 at A1; Roger Simon, *Ex-Aide: Clinton Fondled Me Accusation May Be Most Serious Yet Against President*, Chicago Trib., Mar. 16, 1998 at 1; Thomas Galvin & Corky Siemaszko, *He Deserved A Slap—Willey Sez Bill Behavior 'Reckless,'* N.Y. Daily News, Mar. 16, 1998 at 3.

Willey also alleged that in the period immediately preceding her January 1998 *Jones* deposition, her cat disappeared, her tires were punctured, and a male jogger whom she did not recognize approached her at her rural home, called her by her name, and asked about her tires, cat (which he named), children (whom he named), attorney, and her attorney's children (whom he also named), saying "I hope you're getting the message" or "You're just not getting the message, are you?" Willey 3/6/98 Int. at 18; Willey 3/10/98 GJ at 123-27. At her *Jones* deposition, however, Willey testified no one had tried to discourage her from testifying. Willey 1/11/98 Depo. at 86-87.

Willey told the grand jury that even though she was "terrified for my safety" because of these incidents, "I did give consideration to maybe not—maybe not being very truthful in [her *Jones v. Clinton*] deposition because I thought that my—that people close to me were in jeopardy." Willey 3/10/98 GJ at 170-71. Despite the threats, Willey told the grand jury, she "decided that I had to tell the truth" at her deposition. Willey 3/10/98 GJ at 127. As noted below, see *infra* p. 92 and notes 50-52, there were material differences between Willey's deposition testimony and what she told the grand jury about the incident between her and President Clinton.

This Office investigated whether Landow or others had engaged in any criminal acts such as obstruction of justice or witness intimidation with respect to Willey, and determined there was insufficient evidence to support the filing of criminal charges.

[ii] context, Judge Susan Webber Wright ruled the allegations could be explored during discovery in *Jones*.³ In testimony before the grand jury, President Clinton acknowledged the relevance of the Willey allegation to his *Jones v. Clinton* deposition:

[iii] I was very well prepared to talk about Paula Jones and to talk about Kathleen Willey, because she had made a related charge. She was the only person that I think I was asked about who had anything to do with anything that would remotely approximate sexual harassment.⁴

A. Willey's Allegations.

Kathleen Willey and President Clinton gave consistent testimony that they first met in 1989, when then-Governor Clinton and she attended a political rally for Virginia Lieutenant Governor Douglas Wilder in Charlottesville, Virginia.⁵ Willey began volunteering at the White House soon after President Clinton took office in January 1993.⁶ When Willey learned her family was in serious financial trouble, she decided to ask President Clinton for a paying job.⁷

On November 29, 1993, Nancy Hernreich, Deputy Assistant to the President and Director of Oval Office Operations, escorted Willey into the Oval Office.⁸ Willey was visibly upset and President Clinton asked her what was wrong.⁹ She replied, "I've just got a real serious problem and I need some help from you."¹⁰ Willey said he poured her a cup of coffee in the pantry of the Oval Office dining room, then took her to his private study.¹¹

[iv] Consistent with Willey's testimony, President Clinton agreed he and Willey were the only ones present during their conversation, testifying, "I think it was partly in the Oval Office and partly in the dining room I have in the back[.]"¹² He also agreed, "[S]he got something to drink, I got something to drink."¹³ President Clinton also agreed they walked down the hallway leading from the Oval Office to the private dining room.¹⁴

Willey recalled telling him "there was a financial crisis in my family and that it was very, very serious, and that my days of volunteering were going to have to come to an end, that I really needed a job."¹⁵ Willey said her demeanor was "very emotional. . . . I was crying, because I was worried."¹⁶ Willey said, "I had

³ See Order, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 11, 1997).

⁴ Clinton 8/17/98 GJ at 59.

⁵ Willey 03/10/98 GJ at 9-10. President Clinton said he believed "that [he] met [Willey] once before" the 1992 Richmond debate," in "connection with her involvement with Governor Wilder." Clinton 8/17/98 GJ at 156-57.

⁶ Willey 3/10/98 GJ at 32.

⁷ *Id.* at 44-47; Willey 1/11/98 Depo. at 31.

⁸ Willey 1/11/98 Depo. at 32-33. Hernreich had no recollection of this. Hernreich 3/31/98 GJ 98-99.

⁹ Willey 3/10/98 GJ at 53.

¹⁰ *Id.* at 53.

¹¹ *Id.* at 54-55.

¹² Clinton 1/17/98 Depo. at 31-32.

¹³ *Id.* at 32.

¹⁴ *Id.*

¹⁵ Willey 3/10/98 GJ at 55.

¹⁶ *Id.* at 55-56.

the feeling that [President Clinton] was not really paying attention to what I was saying, which I just found unusual. . . . He was just off someplace else.”¹⁷

President Clinton recalled that his meeting with Willey occurred not long before the death of Willey’s husband.¹⁸ He said he agreed to Willey’s request to see him to discuss her interest in “moving out of the social office where she was not happy.”¹⁹ He agreed Willey appeared “agitated,” and that she told him she was in “very difficult straits” because of “some family financial issues,” and “needed to earn some money.”²⁰

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President Clinton and Willey disagree on what happened at the end of their conversation.²¹ Willey testified, “Right as we got to the door, he stopped and he gave me a hug, which wasn’t unusual, and he said, ‘I’m so sorry that this is happening to you.’”²² Willey said President Clinton took the coffee cup from Willey and put it on a shelf, and that “he had [] his hands in my hair, and I was pulling away from him . . . because I thought it was getting a little tense—well, a little inappropriate.”²³ She alleged that he then fondled her.²⁴ According to Willey, President Clinton also said, “You have no idea how much I wanted you to come and bring me the chicken soup and see me in Williamsburg that evening.”²⁵ Willey said, “Aren’t you afraid somebody’s going to walk in here?”²⁶ He allegedly responded, “[N]o, I’m not.”²⁷

Willey testified the encounter terminated when someone knocked and called out.²⁸ President Clinton, in Willey’s recollection, looked at his watch and noted that he was late for a 3:00 p.m. Cabinet meeting, but said “they c[ould] wait.”²⁹ Willey said she broke away from President Clinton, opened the door, and entered

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¹⁷ *Id.* at 58.

¹⁸ Clinton 1/17/98 Depo. at 30.

¹⁹ *Id.* at 30–31.

²⁰ *Id.* at 31, 33, 43.

²¹ Willey voluntarily submitted to two polygraph tests. The FBI administered two polygraphs because the first was deemed “inconclusive” due to “a lack of consistent, specific, and significant physiological responses,” whereas the results of the second suggested she was being truthful. See Willey 9/9/98 Polygraph; Willey 9/15/98 Polygraph. The results of these polygraph tests were referenced in court during the Julie Hiatt Steele trial. Tr. at 33–34, *United States v. Steele*, No. 99–9–A (E.D. Va. May 3, 1999), discussed further *infra* p. 91 and note 44.

²² Willey 3/10/98 GJ at 59.

²³ *Id.*

²⁴ *Id.* at 60–62.

²⁵ *Id.* at 61. Willey said she had her first telephone conversation with Governor Clinton during his 1992 Presidential Campaign visit to Virginia on October 13, 1992, during which Willey noted Governor Clinton’s voice was raspy and recommended he eat some chicken soup. *Id.* at 13–16. She said when the Governor replied, “Would you bring me some,” she responded, “I’m not sure” and “kind of hemmed and hawed.” *Id.* at 13–14. Willey said the Governor called later, but she told him she was “going to stay right [t]here.” *Id.* at 15. President Clinton testified he could not recall having telephoned Willey that day, but said, “I may well have [called her] and I don’t know why I did it.” Clinton 8/17/98 GJ at 159–60. He acknowledged “some vague memory” of talking with her “at some point . . . about my sore throat, or what she thought would be good for it,” though he thought they discussed it in “some actual person-to-person conversation with her.” *Id.* at 160. Asked whether he had invited Willey to meet with him at his hotel, he responded: “I don’t believe I did that, sir.” *Id.*

²⁶ Willey 3/10/98 GJ at 65.

²⁷ *Id.*

²⁸ *Id.* at 64–66. Willey thought the person who called out was President Clinton’s aide, Andrew Friendly. Friendly said he recalled Willey being in the Oval Office, but he was not sure when. Friendly 4/6/98 Int. at 2–3.

²⁹ Willey 3/10/98 GJ at 65.

the Oval Office.³⁰ He followed, sitting down behind his desk.³¹ She left the Oval Office through the reception area, where she thought she saw Secretary of the Treasury Lloyd Bentsen and Office of Management and Budget Director Leon Panetta.³² Willey, “unnerved by what had happened,” returned home outside Richmond, Virginia, later learning her husband had committed suicide that day.³³

[vii]

Testifying under oath in his *Jones* deposition, President Clinton “emphatically” denied making any sexual advance toward Willey.³⁴ He again denied Willey’s allegations when he testified before the grand jury on August 17, 1998.³⁵ He agreed they had physical contact, but not of a sexual nature.³⁶

B. Evidence Concerning Willey’s Allegations.

Willey and President Clinton are the only direct witnesses to their meeting, and their accounts differ substantially on the crucial facts of what occurred. This Office conducted a substantial investigation to determine whether there was evidence to verify or disprove Willey’s allegations, which in turn would allow an assessment of whether President Clinton’s testimonial denials were truthful.

1. Willey’s Statements to Others.

Willey told several people about the alleged encounter with President Clinton almost immediately after it happened. Ruthie Eisen, a former White House volunteer, testified that Willey informed her of the incident the afternoon or evening of the day it occurred.³⁷ Willey’s friend Dianne Martin also testified that Willey called her on the day of the incident and told her about it.³⁸ Willey saw Linda Tripp not long after the alleged incident, and Tripp later testified that Willey reported what happened.³⁹

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Willey said she also told her friend Julie Hiatt Steele about the encounter soon after it occurred.⁴⁰ Steele first told journalist Michael Isikoff that “Willey had graphically described being fondled by the president,” “that Willey had told her about the incident on the night it allegedly occurred, and that she had been distraught.”⁴¹ Steele later denied Willey told her about the encounter the day it

³⁰ *Id.* at 66.

³¹ *Id.* at 66–67.

³² *Id.* at 67–68. Schedule of President Clinton for 11/29/93 (Doc. No. 1566-DC-00000057); Diarist Notes re: Meeting with Economic Advisors 11/29/93 (Doc. No. 1566-DC-00000068).

³³ Willey 3/10/98 GJ at 44, 72–75.

³⁴ Clinton 1/17/98 Depo. at 35.

³⁵ Clinton 8/17/98 GJ at 161–62.

³⁶ Clinton 1/17/98 Depo. at 35.

³⁷ Tr. at 382–84, *United States v. Steele*, No. 99–9–A (E.D. Va. May 4, 1999) (testimony of Ruthie Eisen).

³⁸ *Id.* at 691–93 (testimony of Dianne Martin).

³⁹ Tripp also testified that when Willey told her about the incident Willey “seemed almost shocked, but happy shocked.” Tripp 6/30/98 GJ at 69–71. Another witness thought Willey seemed flattered by the alleged incident. See Cardozo 4/7/98 Int. at 3–4. Others thought she was offended. Swenson 8/4/98 Int. at 1–2; Gecker 3/31/98 Int. at 3. Tripp also testified that she believed that Willey had a longstanding romantic interest in President Clinton. Tripp 6/30/98 GJ at 39–40, 62.

⁴⁰ Willey 3/10/98 GJ at 73–74.

⁴¹ Michael Isikoff, *A Twist In Jones v. Clinton: Her Lawyers Subpoena Another Woman*, Newsweek, Aug. 11, 1997.

occurred as Steele had originally told Isikoff.⁴² Steele said she had initially lied to Isikoff because Willey had asked her to in late winter 1997.⁴³ This Office pursued criminal charges against Steele for allegedly making false statements to FBI agents and the grand jury.⁴⁴

⁴² Steele maintained Willey did not tell her about any sexual advance by President Clinton until March 1997, when Willey asked Steele to lie for her and say Willey had recounted the incident to her the day it occurred and was visibly upset. Steele 6/11/98 GJ at 45–47, 50. Steele provided her initial statement to *Newsweek* in March 1997. After recanting in July 1997, Steele gave essentially the same account in an affidavit drafted by President Clinton’s attorneys, an FBI interview, a civil suit against a reporter, and media interviews, all in 1998. Steele 2/13/98 Affidavit at ¶¶ 7–8; Steele 3/10/98 Int. at 2–3; Amended Complaint and Demand for Jury Trial at 2–3, *Steele v. Isikoff*, No. 1:98CV01471 (D.D.C. July 2, 1998); Larry King Live: Interview of Julie Hiatt Steele (CNN television broadcast, Aug. 7, 1998); see also Steele 6/11/98 GJ at 101–08, 113, 122–23 (recounting preparation of affidavit).

Contrary to Steele’s denials, William Poveromo, who had dated Steele, testified that while having dinner at Steele’s home in April 1997, she told him that President Clinton had fondled Willey when Willey worked at the White House, and that Willey had told her about it soon after the incident. Tr. at 160–63, *United States v. Steele*, No. 99–9–A (E.D. Va. May 3, 1999) (testimony of William Poveromo). Steele’s friend Mary Earle Highsmith testified that Steele was present at a 1996 lunch where Willey spoke about President Clinton’s “sexual advance.” Highsmith 8/5/98 GJ at 8–12. Highsmith said Steele acted as though she had heard the story before. *Id.* Highsmith testified that some time in November 1997, Steele said she had first heard about the incident in January 1994. Highsmith 11/5/98 GJ at 3; Highsmith 8/5/98 Int. at 1. Amy Horan, Steele’s close friend and former employee, testified that in September 1996 Steele told her that Willey and President Clinton “had an intimate encounter, that they had fondled each other, he had kissed her.” Horan 11/3/98 GJ at 10, 14, 19, 77. Horan understood that the encounter had been consensual, and that it had occurred on the day of Willey’s husband’s suicide. *Id.* at 20–21, 28–29, 33, 49, 77–78.

⁴³ Steele 6/11/98 GJ at 45–47.

⁴⁴ On January 7, 1999, a federal Grand Jury in the United States District Court for the Eastern District of Virginia charged Steele with false statements and obstruction of justice by interfering with a grand jury investigation in violation of 18 U.S.C. §§ 1001 & 1503. Trial began May 3 and ended on May 7, 1999 with a mistrial because the jury was unable to reach a unanimous verdict on any count. Tr. at 1–2, *United States v. Steele*, No. 99–9–A (E.D. Va. May 3, 1999); *id.* at 878–79. According to a press report, nine jurors voted to convict Steele, and the jury foreman said that one of the jurors voting for acquittal had refused to keep an open mind. See Pete Yost, *Starr Urged To Retry Hiatt Steele*, Associated Press, May 22, 1999, at 1 (available at 1999 WL 17806509). One of the jurors who voted for acquittal apparently did not believe Willey’s testimony. See, e.g., Pete Yost, *Retry Julie Hiatt Steele, Jury Foreman Tells Starr Panel Members Vote 9–3 To Convict*, New Orleans Times-Picayune, May 23, 1999, at A8 (quoting one of the jurors who voted for acquittal as saying Willey had “zero credibility”). The Office decided not to pursue a retrial. The following month the Independent Counsel’s motion to dismiss the indictment was granted. Order, *United States v. Steele*, 99–CR–9–ALL (E.D. Va. June 9, 1999).

Following dismissal of the indictment, Steele filed a motion under the “Hyde Amendment,” which entitles a “prevailing party” in a criminal case to recovery of costs and attorneys’ fees “where the court finds that the position of the United States was vexatious, frivolous, or in bad faith.” Depts. of Commerce, Justice and State, and the Judiciary and Related Agencies Appropriations Act of 1998, Pub. L. No. 105–119, § 617, 111 Stat. 2440, 2519 (1997), reprinted in 18 U.S.C. A. § 3006A, Historical and Statutory Notes, “Attorneys’ Fees and Litigation Expenses to Defense” (West. Supp. 1999). The district court denied Steele’s request:

[T]his Court presided over this trial, and, after hearing all of the evidence and observing all of the witnesses, the Court denied defendant Steele’s Motion for Judgment of Acquittal. . . , effectively ruling that the evidence was sufficient for a reasonable trier of fact to find the defendant guilty. This Court found then and finds now that there was sufficient evidence to submit all of the counts to the jury for their verdict. Based on the entire record before the Court, . . . this Court finds that the prosecution of Defendant Steele was not vexatious, frivolous, or in bad faith.

Order at 1–2, *United States v. Steele*, No. 99–9–A (E.D. Va. Aug. 3, 1999). Steele then appealed that ruling to the United States Court of Appeals for the Fourth Circuit, which affirmed by summary order the lower court’s ruling that the Independent Counsel’s prosecution of Steele was not vexatious, frivolous, or in bad faith. *United States v. Steele*, No. 99–4589, 2000 WL 690494, at *3 (4th Cir. May 26, 2000) (per curiam).

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2. Communications By Willey With President Clinton Following the Alleged Incident.

Willey testified she met again with President Clinton on December 10, 1993 and told him she considered his November 29 behavior “unfortunate and inappropriate,” but wanted to put the event “behind her.”⁴⁵ As a widow, she said, she “need[ed] a job more than ever.”⁴⁶ Willey said President Clinton did not acknowledge her reference to the alleged prior encounter.⁴⁷

One month after their November encounter, Willey sent a note reminding President Clinton she needed a job: “Thank you for the opportunity to work in this great house. After this bittersweet year, my first resolution for 1994 will be the pursuit of a meaningful job. I hope it will be here.”⁴⁸ Subsequent letters also sought President Clinton’s help or expressed gratitude.⁴⁹

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3. Willey’s Testimony to the Grand Jury About the Alleged Incident Differed Materially from Her Deposition Testimony Given in *Jones v. Clinton*.

Willey’s *Jones* deposition testimony differed from her grand jury testimony on material aspects of the alleged incident. She said at her deposition that she could not recall whether President Clinton succeeded in kissing her⁵⁰ and that he did not fondle her.⁵¹ She also claimed she had never talked to anyone other than Isikoff, Gecker, and Steele about the details of the incident.⁵²

4. Willey’s Statements to This Office.

The Independent Counsel agreed not to prosecute Willey for any offense arising out of the investigation, including false statements in her *Jones* deposition, so long as she cooperated fully and truthfully with the investigation.⁵³ Following that first immunity agreement, Willey gave false information to the FBI about her sexual relationship with a former boyfriend,⁵⁴ and acknowledged

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⁴⁵ Willey 3/10/98 at 77–79.

⁴⁶ *Id.* at 28; Willey 3/6/98 Int. at 11.

⁴⁷ Willey 3/10/98 GJ at 80; Willey 3/6/98 Int. at 11.

⁴⁸ Card to President Clinton from Kathleen Willey (Dec. 20, 1993) (Doc. No. 1089–DC–00000299–300).

⁴⁹ *See, e.g.*, Letter to President Clinton from Kathleen Willey (Oct. 18, 1994) (Doc. No. 1089–DC–00000221) (“I have invested almost three years with your campaign and administration and am not very willing to depart yet”); Letter to President Clinton from Kathleen Willey (Dec. 5, 1995) (Doc. No. 1089–DC–00000246–248) (thanking President for appointing her to Convention on Biological Diversity, but noting Bob Nash of the Presidential Personnel office is “still having a lot of difficulty finding a job for me” and requesting a position on the reelection campaign); Note to President Clinton from Kathleen Willey (Feb. 14, 1995) (Doc. No. 1089–DC–00000309) (requesting appointment to International Union for the Conservation of Nature).

⁵⁰ Willey 1/11/98 Depo. at 47.

⁵¹ *Id.* at 84.

⁵² *Id.* at 88–89, 97, 101.

⁵³ Willey 3/6/98 Cooperation Agreement at 1–2. The agreement stipulated the “request for immunity is made at the request of your attorney out of an abundance of caution and not because you believe you intentionally answered any question incorrectly, nor committed any offense.” *Id.*

⁵⁴ Willey 6/22/98 Int. at 3–4.

having lied about it when the agents confronted her with contradictory evidence.⁵⁵ Following Willey's acknowledgement, the Independent Counsel agreed not to prosecute her for false statements in this regard.⁵⁶

C. Analysis of Potential Statutory Violations Relating to President Clinton's Testimony About the November 1993 Incident With Willey.

Willey and President Clinton, the only two percipient witnesses to the alleged encounter, substantially and materially disagree on what occurred. The burden of proving what actually occurred in a case against President Clinton rests on the prosecutor, and Willey would be the government's principal witness. In the Independent Counsel's judgment, the evidence was insufficient to prove to a jury beyond a reasonable doubt that the President's deposition testimony about his conduct with Willey was false.⁵⁷

Linda Tripp's testimony that Willey had a previous romantic interest in President Clinton (and appeared to view his alleged advances positively) departed from Willey's testimony. Tripp's cooperation with this Office in the Lewinsky investigation ultimately yielded evidence about President Clinton's conduct with Monica Lewinsky that was contrary to the President's testimony. Thus, evidence supplied by Linda Tripp regarding Willey that was consistent with President Clinton's testimony would likely be favorably received by a jury.

Even assuming Willey's testimony was truthful about the incident with President Clinton, her testimony at trial would be subject to further challenge based on the differences between her deposition and grand jury statements, as well as her acknowledgement of false statements to the Office of the Independent Counsel. Concerns about the probative effect of Willey's testimony would likely be sufficient to negate a conclusion that "the person [charged] probably will be found guilty by an unbiased trier of fact."⁵⁸

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⁵⁵ Willey 1/7/99 GJ at 130-32.

⁵⁶ Letter to Dan Gecker, Esq., attorney for Kathleen Willey, from David G. Barger, Assoc. Independent Counsel (Sept. 25, 1998).

⁵⁷ The Independent Counsel is not offering, and cannot offer, any opinion as to whose version of events is right, Willey's or President Clinton's, concerning what happened on November 29, 1993. Unlike Lewinsky's allegations about intimate contact with President Clinton that were separately corroborated by, among other things, Lewinsky's dress, see Final Report of the Independent Counsel at 35 & n.115, *In re: Madison Guaranty Sav. & Loan Ass'n*, (regarding Monica Lewinsky and others) (filed May 18, 2001), here there was no indisputable, physical evidence corroborating Willey's allegations. In the narrow context of assessing whether to seek criminal charges against President Clinton for his denials, the burden falls on the government to prove the President should not be believed. For the reasons stated in the text, the Independent Counsel concluded no more and no less than that charges could not be sustained against President Clinton concerning his testimony about Willey.

⁵⁸ United States Attorneys' Manual, Title 9 § 9-27-220(B); see *Foreman: Steele Jury Favored Conviction; He Suggests Retrial*, Minn.-St. Paul Star Tribune, May 23, 1999, at 15A (one of Steele's jurors who voted for acquittal "pointed to testimony in Steele's trial that after Willey was granted immunity from prosecution by Starr's office, she was caught lying to prosecutors about a relationship she had had").

In short, there was insufficient evidence to prove to a jury beyond a reasonable doubt that President Clinton's testimony regarding Kathleen Willey was false. Accordingly, the Independent Counsel declined prosecution and the investigation of potential criminal wrongdoing relating to Willey's allegations is now closed.